

2009 DRAFTING REQUEST**Bill**Received: **10/21/2008**Received By: **jkreye**Wanted: **As time permits**

Identical to LRB:

For: **Julie Lassa (608) 266-3123**By/Representing: **danielle**This file may be shown to any legislator: **NO**Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**Requester's email: **Sen.Lassa@legis.wisconsin.gov**Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov****Pre Topic:**

No specific pre topic given

Topic:

Supplemental historic rehabilitation tax credit

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 10/22/2008	nmatzke 10/23/2008					S&L
/1			phenry 10/23/2008		mbarman 10/23/2008	cduerst 01/06/2009	

FE Sent For:

<END>

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/?	jkreye	/1 nwn 10/23	10/23 ph	10/23 ph			

FE Sent For:

<END>

Kreye, Joseph

From: Wilson, Danielle
Sent: Tuesday, October 21, 2008 3:40 PM
To: Kreye, Joseph
Subject: FW: Historical Preservation redraft language.
Attachments: LRB-0033-2 corrected version.pdf

Hi Joseph,

Senator Lassa would like to draft a new bill based on the attached draft.

Thank you very much for your assistance. I hope you have had a nice break since last session. ☺

Danielle Wilson

Clerk, Senate Committee on Economic Development
Office of Senator Julie Lassa
P.O. Box 7882
Madison, WI 53707-7882
(608) 266-3123
danielle.wilson@legis.wisconsin.gov

From: Kelly, Jessica
Sent: Tuesday, October 21, 2008 1:19 PM
To: Wilson, Danielle
Subject: FW: Historical Preservation redraft language.

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
608-266-3123
1-800-925-7491 toll-free
608-267-6797

From: Alice O'Connor [mailto:AOConnor@murphydesmond.com]
Sent: Monday, October 20, 2008 10:16 AM
To: Kelly, Jessica
Cc: ggorman@gormanusa.com
Subject: Historical Preservation redraft language.

Hi Jessica,

10/21/2008

As we discussed, I am attaching the historical preservation redraft with a minor change from last session that merely updates the effective date. Thanks so much for getting this into drafting now so perhaps this can be out of the gate as soon as the new legislature convenes in January. If Senator Lassa wants to make this one of her early bills to move forward—we'd love it. You may recall, we did all the hard work before the Senator even had a hearing on our bill. There was no opposition to this legislation. We anticipate support will continue to be unanimous. Key players—the Dept of Revenue, State Historical Society, Wisconsin Realtors Association, WI Builders Association, all supported this bill. Cities love it because they are separate for anything that would stimulate economic activity. Senator Lassa's committee passed this out of her committee unanimously last session. We had the same experience in the Assembly Committee.

We will wait to submit a companion bill in the Assembly until we see the outcome of the Assembly race in the 80th Assembly district. Who knows? If the Senator's bill moves quickly, we won't even do a companion bill. I mentioned that the Governor has indicated to Gary Gorman he will put this identical language attached here in his budget bill. However, we are operating from "trust, but verify," so separate legislation is both an insurance policy and perhaps going to be a quicker way to get this done. With the \$3 billion new hole projected, the budget bill could take forever to pass.

As always, we appreciate everything you and Senator Lassa do. You are one of the easiest offices to work with and it is as testament to both the Senator and you. Thanks!

Alice

Alice O'Connor
 Director of Government Relations
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2009 BILL

in 10-21-08
SOON

Regen. Cat.

- 1 AN ACT *to amend* 44.02 (24), 71.07 (9m) (c), 71.07 (9m) (f), 71.28 (6) (c), 71.28 (6)
2 (f), 71.47 (6) (c) and 71.47 (6) (f); and *to create* 71.07 (9m) (cm), 71.07 (9m) (g),
3 71.28 (6) (cm), 71.28 (6) (g), 71.47 (6) (cm) and 71.47 (6) (g) of the statutes;
4 **relating to:** the income and franchise tax credit that supplements the federal
5 historic rehabilitation tax credit.

Analysis by the Legislative Reference Bureau

Under current law, a person who owns an income-producing historic building may claim a federal income tax credit that is equal to 20 percent of certain costs to rehabilitate the historic building. To claim the credit, the building must be listed, or be eligible for listing, on the national register of historic places or located in certain national, state, or local historic districts, and the rehabilitation work must comply with standards established by the secretary of the interior.

Under current law, a person who may claim the federal income tax credit for rehabilitating an income-producing historic building may also claim a state income tax or franchise tax credit that is equal to 5 percent of certain costs to rehabilitate the historic building. To claim the credit, the person must include with the person's tax return evidence that the secretary of the interior approved the rehabilitation work before the rehabilitation work began.

Under this bill, a person may claim the state income and franchise tax credit for rehabilitating an income-producing historic building if the person includes with the person's tax return evidence that the state historic preservation officer

BILL

recommended the rehabilitation work for approval by the secretary of the interior before the rehabilitation work began and that the rehabilitation was approved by the secretary of the interior.

Under current law, each partner in a partnership or member of a limited liability company is allocated a portion of any tax credit that the partnership or limited liability company may claim, including the credit for rehabilitating a historic building, based on each partner's or member's ownership interest. Under this bill, a partner or member is allocated a portion of the tax credit for rehabilitating a historic building in a manner specified in an agreement with the other partners or members.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 44.02 (24) of the statutes is amended to read:

2 44.02 (24) Promulgate by rule procedures, standards and forms necessary to
3 certify, and shall certify, expenditures for preservation or rehabilitation of historic
4 property for the purposes of s. ss. 71.07 (9m) and (9r), 71.28 (6), and 71.47 (6). These
5 standards shall be substantially similar to the standards used by the secretary of the
6 interior to certify rehabilitations under 26 USC 47 (c) (2).

7 **SECTION 2.** 71.07 (9m) (c) of the statutes is amended to read:

8 71.07 (9m) (c) No person may claim the credit under this subsection unless the
9 claimant includes with the claimant's return evidence that the rehabilitation was
10 approved recommended by the state historic preservation officer for approval by the
11 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
12 or destruction in preparation for construction, began and that the rehabilitation was
13 approved by the secretary of the interior under 36 CFR 67.6.

14 **SECTION 3.** 71.07 (9m) (cm) of the statutes is created to read:

BILL

1 71.07 (9m) (cm) Any credit claimed under this subsection for Wisconsin
2 purposes shall be claimed at the same time as for federal purposes.

3 **SECTION 4.** 71.07 (9m) (f) of the statutes is amended to read:

4 71.07 (9m) (f) A partnership, limited liability company, or tax-option
5 corporation may not claim the credit under this subsection. The individual partners
6 of a partnership, members in of a limited liability company, or shareholders in a
7 tax-option corporation may claim the credit under this subsection based on eligible
8 costs incurred by the partnership, company, or tax-option corporation, in proportion
9 to the ownership interest of each partner, member or shareholder. The partnership,
10 limited liability company, or tax-option corporation shall calculate the amount of the
11 credit which may be claimed by each partner, member, or shareholder and shall
12 provide that information to the partner, member, or shareholder. For shareholders
13 of a tax-option corporation, the credit may be allocated in proportion to the
14 ownership interest of each shareholder. Credits computed by a partnership or
15 limited liability company shall be allocated to partners or members as provided in
16 a written agreement among the partners or members that is entered into no later
17 than the last day of the taxable year of the partnership or limited liability company,
18 for which the credit is claimed. Any partner or member who claims the credit as
19 provided under this paragraph, for which the credit is claimed shall attach a copy of
20 the agreement to the tax return on which the credit is claimed. A person claiming
21 the credit as provided under this paragraph is solely responsible for any tax liability
22 arising from a dispute with the department of revenue related to claiming the credit.

23 **SECTION 5.** 71.07 (9m) (g) of the statutes is created to read:

24 71.07 (9m) (g) 1. If a person who claims the credit under this subsection elects
25 to claim the credit based on claiming amounts for expenditures as the expenditures

BILL**SECTION 5**

1 are paid, rather than when the rehabilitation work is completed, the person shall file
2 an election form with the department, in the manner prescribed by the department.

3 2. Notwithstanding s. 71.77, the department may adjust or disallow the credit
4 claimed under this subsection within 4 years after the date that the state historical
5 society notifies the department that the expenditures for which the credit was
6 claimed do not comply with the standards for certification promulgated under s.
7 44.02 (24).

8 **SECTION 6.** 71.28 (6) (c) of the statutes is amended to read:

9 71.28 (6) (c) No person may claim the credit under this subsection unless the
10 claimant includes with the claimant's return evidence that the rehabilitation was
11 approved recommended by the state historic preservation officer for approval by the
12 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
13 or destruction in preparation for construction, began and that the rehabilitation was
14 approved by the secretary of the interior under 36 CFR 67.6.

15 **SECTION 7.** 71.28 (6) (cm) of the statutes is created to read:

16 71.28 (6) (cm) Any credit claimed under this subsection for Wisconsin purposes
17 shall be claimed at the same time as for federal purposes.

18 **SECTION 8.** 71.28 (6) (f) of the statutes is amended to read:

19 71.28 (6) (f) A partnership, limited liability company, or tax-option corporation
20 may not claim the credit under this section subsection. The individual partners of
21 a partnership, members of a limited liability company, or shareholders in a
22 tax-option corporation may claim the credit under this subsection based on eligible
23 costs incurred by the partnership, limited liability company, or tax-option
24 corporation, ~~in proportion to the ownership interest of each partner, member or~~
25 shareholder. The partnership, limited liability company, or tax-option corporation

BILL

1 shall calculate the amount of the credit which may be claimed by each partner,
2 member, or shareholder and shall provide that information to the partner, member,
3 or shareholder. For shareholders of a tax-option corporation, the credit may be
4 allocated in proportion to the ownership interest of each shareholder. Credits
5 computed by a partnership or limited liability company shall be allocated to partners
6 or members as provided in a written agreement among the partners or members that
7 is entered into no later than the last day of the taxable year of the partnership or
8 limited liability company, for which the credit is claimed. Any partner or member
9 who claims the credit as provided under this paragraph shall attach a copy of the
10 agreement to the tax return on which the credit is claimed. A person claiming the
11 credit as provided under this paragraph is solely responsible for any tax liability
12 arising from a dispute with the department of revenue related to claiming the credit.

13 **SECTION 9.** 71.28 (6) (g) of the statutes is created to read:

14 71.28 **(6)** (g) 1. If a person who claims the credit under this subsection elects
15 to claim the credit based on claiming amounts for expenditures as the expenditures
16 are paid, rather than when the rehabilitation work is completed, the person shall file
17 an election form with the department, in the manner prescribed by the department.

18 2. Notwithstanding s. 71.77, the department may adjust or disallow the credit
19 claimed under this subsection within 4 years after the date that the state historical
20 society notifies the department that the expenditures for which the credit was
21 claimed do not comply with the standards for certification promulgated under s.
22 44.02 (24).

23 **SECTION 10.** 71.47 (6) (c) of the statutes is amended to read:

24 71.47 **(6)** (c) No person may claim the credit under this subsection unless the
25 claimant includes with the claimant's return evidence that the rehabilitation was

BILL**SECTION 10**

1 approved recommended by the state historic preservation officer for approval by the
2 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
3 or destruction in preparation for construction, began and that the rehabilitation was
4 approved by the secretary of the interior under 36 CFR 67.6.

5 **SECTION 11.** 71.47 (6) (cm) of the statutes is created to read:

6 71.47 (6) (cm) Any credit claimed under this subsection for Wisconsin purposes
7 shall be claimed at the same time as for federal purposes.

8 **SECTION 12.** 71.47 (6) (f) of the statutes is amended to read:

9 71.47 (6) (f) A partnership, limited liability company, or tax-option corporation
10 may not claim the credit under this subsection. The individual partners of a
11 partnership, members of a limited liability company, or shareholders in a tax-option
12 corporation may claim the credit under this subsection based on eligible costs
13 incurred by the partnership, limited liability company, or tax-option corporation, in
14 proportion to the ownership interest of each partner, member or shareholder. The
15 partnership, limited liability company, or tax-option corporation shall calculate the
16 amount of the credit which may be claimed by each partner, member, or shareholder
17 and shall provide that information to the partner, member, or shareholder. For
18 shareholders of a tax-option corporation, the credit may be allocated in proportion
19 to the ownership interest of each shareholder. Credits computed by a partnership
20 or limited liability company shall be allocated to partners or members as provided
21 in a written agreement among the partners or members that is entered into no later
22 than the last day of the taxable year of the partnership or limited liability company,
23 for which the credit is claimed. Any partner or member who claims the credit as
24 provided under this paragraph shall attach a copy of the agreement to the tax return
25 on which the credit is claimed. A person claiming the credit as provided under this

BILL

1 paragraph is solely responsible for any tax liability arising from a dispute with the
2 department of revenue related to claiming the credit.

3 **SECTION 13.** 71.47 (6) (g) of the statutes is created to read:

4 71.47 **(6)** (g) 1. If a person who claims the credit under this subsection elects
5 to claim the credit based on claiming amounts for expenditures as the expenditures
6 are paid, rather than when the rehabilitation work is completed, the person shall file
7 an election form with the department, in the manner prescribed by the department.

8 2. Notwithstanding s. 71.77, the department may adjust or disallow the credit
9 claimed under this subsection within 4 years after the date that the state historical
10 society notifies the department that the expenditures for which the credit was
11 claimed do not comply with the standards for certification promulgated under s.
12 44.02 (24).

13 **SECTION 14. Initial applicability.**

14 (1) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. This act first
15 applies to property placed in service on or after June 30, 2008.

16 (END)

Duerst, Christina

From: Knickelbine, Mark
Sent: Tuesday, January 06, 2009 1:13 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0574/1 Topic: Supplemental historic rehabilitation tax credit

Please Jacket LRB 09-0574/1 for the SENATE.